

**R E M A R K S**

Upon entry of this amendment, claims 1 – 4, 6 – 13, 16 – 17, 21 and 24 – 25 will be in the application, with claim 1 having been amended and claim 26 having been added. Claim 1 is the sole independent claim herein. No new matter has been added. Reconsideration and entry of the amendment are respectfully requested.

**Claim Rejections**

Claims 1, 4, 6-13, 16, 17, 21, 24, and 25 are rejected under 35 U.S.C. §103(a) as being anticipated by U.S. Patent No. 7,352,856 ("Matsuhashi") in view of U.S. Patent No. 7,257,126 ("Hirano"). Reconsideration and withdrawal of the rejections are respectfully requested.

**Rejection of the independent claim****Claim 1**

Amended independent claim 1 recites a dual mode packet phone that comprises a first connector to connect the phone with a data network, a second connector to connect the phone with a backup network, a communications channel, a backup switch, and a control unit. The data network is a digital Voice-over-IP Ethernet network and the backup network is an analog network or a digital time division multiplexing (TDM) network. The communications channel sends a communication signal and the backup switch connects the communications channel to the first connector or the second connector. The control unit monitors a first connection attempt initiated on the data network and, if a response to the first connection attempt is not received within a predetermined time, the control unit controls the backup switch to disconnect the communications channel from the first connector and connects the communication channel to the second connector. Moreover, the signal causes a relay to connect an external line to either the data network or the backup network.

The art of record cannot be seen to disclose or to suggest the above-mentioned features of amended independent claim 1. In particular, the art of record cannot be seen to disclose or to suggest (1) a backup switch to disconnect a communications channel from a first connector and to connect the communication channel to a second connector if a response to a first connection attempt is not received within a predetermined time and (2) a signal that causes a relay to connect an external line to either a data network or a backup network.

Matsuhashi discloses a telephone for a PSTN network and an IP network. However, as conceded in the Office Action, Matsuhashi fails to disclose any action which depends on whether a response to a first connection attempt is not received within a predetermined time. Furthermore, Matsuhashi fails to disclose that a signal causes a relay to connect an external line to either a data network or a backup network.

Hirano discloses a wireless LAN system that connects via a point coordination function ("PCF") protocol or via a distributed coordination function ("DCF") protocol as illustrated in FIG. 20A and FIG. 20B. The office action references column 16, lines 44-51. At the aforementioned section, Hirano states that if communication has not taken place using a DCF system for a predetermined time, then "**the form** of the wireless communication system of the present invention" (emphasis added) is switched and an unused DCF mode period can be omitted to enable effective use of resources.

However, nowhere does Hirano disclose or suggest that the PCF or DCF protocol is associated with a physical switch. Therefore, nowhere can Hirano be seen to disclose or suggest a backup switch to disconnect a communications channel from a first connector and to connect the communication channel to a second connector if a response to a first connection attempt is not received within a predetermined time. Furthermore, Hirano fails to disclose that a signal causes a relay to connect an external line to either a data network or a backup network.

Therefore, nowhere can the combination of Matsuhashi and Hirano, taken in any permissible combination be seen to disclose or suggest (1) a backup switch to

disconnect a communications channel from a first connector and to connect the communication channel to a second connector if a response to a first connection attempt is not received within a predetermined time and (2) a signal that causes a relay to connect an external line to either a data network or a backup network.

Therefore, amended independent claim 1 and its related dependent claims are believed to be in condition for allowance for at least these reasons.

Rejection of the dependent claims

Claim 17

As previously stated, dependent claim 17 relates to the phone of claim 1 wherein a TDM network uses at least one of ISDN, Optiset, RolmLink, Nortel, or Avaya protocols. The Office Action states that Matsuhashi discloses a "Ether frame header 301" and that "Ethernet is a trademark of Xerox Corp." Applicants respectfully point out that Ethernet is not a time division multiplexing networking protocol as well known in the art. Specifically, as known in the art, Ethernet is based on a carrier sense multiple access scheme with collision detection (CSMA/CD) to govern sharing of a computer network. Moreover, CSMA/CD does not operate via time division multiplexing. In view of the foregoing, dependent claim 17 is believed to be in condition for allowance.

**C O N C L U S I O N**

Accordingly, Applicant respectfully requests allowance of the pending claims. If any issues remain, or if the Examiner has any further suggestions for expediting allowance of the present application, the Examiner is kindly invited to contact the undersigned via telephone at (203) 972-4982.

Respectfully submitted,

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Date

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